

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Amanda Field	Team: Squad #9	CCRB Case #: 201909554	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Thursday, 09/19/2019 1:00 PM	Location of Incident: § 87(2)(b) Jamaica, NY 11435		Precinct: 103	18 Mo. SOL 3/19/2021	EO SOL 11/3/2021
Date/Time CV Reported Mon, 11/04/2019 9:09 AM	CV Reported At: CCRB	How CV Reported: In-person	Date/Time Received at CCRB Mon, 11/04/2019 9:09 AM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. POF Katherine Argudo	11875	965654	103 PCT
2. SGT Sesame James	02943	915950	103 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Kevin Kelland	22912	965235	103 PCT
2. SGT Alexander Wong	04679	931445	103 PCT
3. POM Elvis Rodriguez	22609	939336	103 PCT
4. POM Wushen Zhang	13192	961475	103 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POF Katherine Argudo	Abuse: Police Officer Katherine Argudo threatened to arrest § 87(2)(b)	§ 87(2)(b)
B.SGT Sesame James	Abuse: Sergeant Sesame James threatened to arrest § 87(2)(b)	§ 87(2)(b)

### Case Summary

On November 4, 2019, § 87(2)(b) filed this complaint in-person at the CCRB.

On September 19, 2019, at approximately 1:00 PM, § 87(2)(b) called 911 to report that his metal toolbox had been cut open and his tools had been stolen from his former workplace, § 87(2)(b), in Queens. Police Officer Kevin Kelland and Police Officer Katherine Argudo of the 103rd Precinct responded to the scene. While speaking with § 87(2)(b) PO Argudo told him that he could be arrested for filing a false report (**Allegation A: Abuse of Authority – Threat of Arrest**, § 87(2)(g)).

Sergeant Sesame James and her operator, Police Officer Wushen Zhang, both of the 103rd Precinct, arrived on scene. Sgt. James allegedly told § 87(2)(b) that he could be arrested if he tried to enter the job site in the future (**Allegation B: Abuse of Authority — Threat of Arrest**, § 87(2)(g)).

The investigation obtained body-worn camera video from PO Kelland (**Board Review 01**) and PO Argudo (**Board Review 02**), however the footage does not cover the time period during which FADOs are alleged to have occurred. Sgt. James did not activate her body-worn camera during this incident (**Board Review 03**).

§ 87(2)(b) was neither arrested nor did he receive a summons during this incident.

### Findings and Recommendations

#### **Allegation (A) Abuse of Authority: Police Officer Katherine Argudo threatened to arrest**

§ 87(2)(b)

It is undisputed that § 87(2)(b) called 911 to report that his tools were stolen. It is also undisputed that PO Argudo responded to the scene and told § 87(2)(b) that if he was lying about his tools being stolen, he would be arrested for filing a false police report (**Board Review 05**).

NYS Penal Law 240.50 (Board Review 06). A person is guilty of falsely reporting an incident when they intentionally report to law enforcement an alleged occurrence of an offense or incident which did not in fact occur.

§ 87(2)(g)

#### **Allegation (B) Abuse of Authority: Sergeant Sesame James threatened to arrest**

§ 87(2)(b)

It is undisputed that by September 19, 2019, § 87(2)(b)'s employment at the § 87(2)(b). It is also undisputed that on September 19, 2019, § 87(2)(b) had obtained permission from § 87(2)(b) to enter the job site and file a police report for his stolen tools.

In his CCRB statement, § 87(2)(b) stated that Sgt. James told him he could not return to the jobsite again or he would be arrested (**Board Review 04**). Mr. § 87(2)(b) also stated that § 87(2)(b) the § 87(2)(b), told officers on scene that he had no problem with § 87(2)(b) returning to the job site at a future time to retrieve the tools that remained and that § 87(2)(b) would make sure the tools would be taken care of until then.

In her CCRB statement, Sgt. James stated that she did not make the statement that § 87(2)(b) would be arrested if he returned to the jobsite, and further, Sgt. James stated that she did not have a conversation about a potential arrest with § 87(2)(b). In his CCRB statement, PO Kelland did not recall if Sgt. James threatened to arrest § 87(2)(b) if he returned to the job site at a future time. In her CCRB statement, PO Argudo did not recall if Sgt. James threatened to arrest § 87(2)(b) for returning to job site at a future (**Board Review 05**).

When § 87(2)(b) was asked during his CCRB interview whether he told § 87(2)(b) that he could not return to the job site at a future time, § 87(2)(b) responded no, he never told § 87(2)(b) that he could not return to the job site in the future (**Board Review 07**). When Sgt. James

asked § 87(2)(b) if he wanted to have § 87(2)(b) remove his property from the job site immediately, § 87(2)(b) declined to take that action. When asked if he heard Sgt. James state to § 87(2)(b) that he could not return to the building, § 87(2)(b) stated that he could not recall. § 87(2)(b) stated that he informed Sgt. James that he was the one in charge of making decisions for who could enter the job site.

The BWC obtained from PO Kelland and PO Argudo from the incident does not include the time interval during which this allegation is alleged to have occurred which was after Sgt. James arrived on scene. Sgt. James stated that she was not required to turn on her BWC for this incident as it was for a past larceny.

§ 87(2)(b)

#### Civilian and Officer CCRB Histories

- This is the first CCRB complaint to which § 87(2)(b) has been a party (**Board Review 08**).
- PO Argudo has been a member of service for one year and this is the first complaint for which she has been a subject (see officer history).
- Sgt. James has been a member of service for 24 years and has been a subject in two previous CCRB complaints and two allegations, none of which were substantiated. § 87(2)(b)

#### Mediation, Civil and Criminal Histories

- § 87(2)(b) declined to mediate this complaint.
- As of April 22, 2020, the NYC Office of the Comptroller has no record of a Notice of Claim being filed regarding this complaint (**Board Review 9**).
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Squad No.: 9

Investigator:	<u>Amanda Field</u> Signature	<u>Investigator Amanda Field</u> Print Title & Name	<u>08/28/2020</u> Date
Squad Leader:	<u>Wassim Abedrabbo</u> Signature	<u>SI Wassim Abedrabbo</u> Print Title & Name	<u>09/21/2020</u> Date
Reviewer:	<u></u> Signature	<u></u> Print Title & Name	<u></u> Date